



**UNITED STATES DEPARTMENT OF  
COMMERCE**  
**Patent and Trademark Office**

Patent Cooperation Treaty Legal Office

Address: Assistant Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

**SEP 20 1999**

Anthony J. Zelano  
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
Arlington Courthouse Plaza I  
2200 Clarendon Boulevard, Suite 1400  
Arlington, Virginia 22201

In re Application of	:	
ENDRIKAT, Jan et al.	:	
PCT No.: PCT/DE96/02486	:	
Int. Filing Date: 20 December 1996	:	DECISION DISMISSING
U.S. Application No. 09/091,665	:	
Priority Date: 23 December 1995	:	PETITION UNDER
Attorney Docket No.: SCH 1637	:	
For: CONTRACEPTIVE PROCESS AND KIT	:	37 CFR 1.181
FOR FEMALE MAMMALS THAT CONSISTS	:	
OF A COMBINATION OF GESTAGEN AND	:	
ESTROGEN	:	

This is a decision on applicant's facsimile transmission filed in the Patent and Trademark Office (PTO) on 20 March 1999. The response is being treated as a petition under 37 CFR 1.181 requesting that the second submission of the Declaration and Power of Attorney (filed on 20 March 1999) , via facsimile, be accepted as having been filed on 02 September 1998.

**BACKGROUND**

On 20 December 1996, the applicant filed International Application No. PCT/DE96/02486, which claimed priority to German application No. 195 49 264.1 filed on 23 December 1995. A Demand was filed for International Application No. PCT/DE96/02486 on 22 May 1997, accordingly the thirty-month time limit to file for a National Stage application expired at midnight on 23 June 1998.

On 22 June 1998, the applicant filed a National Stage application for international application PCT/DE96/02486. The National Stage application was assigned United States application No. 09/091,665. The applicant did not include an Oath or Declaration from the inventors, at the time of filing of the National Stage application.

On 02 September 1998, the applicant filed a Declaration and Power of Attorney under 35 USC 371.

On 19 October 1998, the Office mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" which indicated that the Oath or Declaration of the inventors must be submitted within one month from the date of mailing of the "NOTICE" or 31 Months from the priority date of the application, whichever is later.

On 03 March 1999, the applicant conversed telephonically with Ms. Vonda Wallace, who indicated to the applicant that there is no record of a copy of the Declaration and Power of Attorney having been received at the Patent and Trademark Office on 02 September 1998. In response, on 03 March 1999, the applicant submitted, via facsimile, a copy of the Declaration and Power of Attorney submitted on 02 September 1998, a copy of the cover letter, and a copy of the postcard return receipt. The return receipt postcard indicated that a submission of a Declaration and Power of Attorney under 35 SC 371 had been received by the Patent and Trademark Office on 02 September 1998.

### DISCUSSION

The 02 September 1998 submission of the Declaration and Power of Attorney has been filed in United States application No. 09/091,665. Accordingly, a petition requesting acknowledgment of receipt of the second submission of the Declaration and Power of Attorney is therefore, moot.

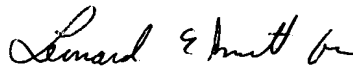
### CONCLUSION

For the reasons given above, the petitioner's request that the Office accept the copy of the Declaration and Power of Attorney, submitted via facsimile, on 03 March 1999, be accepted as having been filed on 02 September 1998, is DISMISSED, as being moot.

The Declaration and Power of Attorney will be forwarded to the United States Designated Office/ Elected Office (DO/EO/US) for review and processing.



Lissi Mejia  
PCT Legal Examiner  
PCT Legal Office



Conferee: Richard Cole  
PCT Legal Examiner  
PCT Legal Office

Telephone: 703-308-2260  
Facsimile: 703-308-6459